Evaluation of Council Directive 92/83/EEC on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages

FWC TAXUD/2012/CC116

Survey to National Tax Authorities
September 2015

European Commission

RAMBOLL

Europe Economics

Evaluation of Council Directive 92/83/EEC: share your views

The European Commission Directorate-General Taxation and Customs Union (DG TAXUD) has commissioned an evaluation of **Directive 92/83/EEC**, which covers the harmonization of the structures of excise duties on alcohol and alcoholic beverages (hereafter the Directive). Ramboll Management Consulting and Europe Economics have been awarded the contract.

The objective of the evaluation is to provide the Commission with the economic information to adopt a policy and assess the likely impact of this future policy for revising the Directive. To this end, the evaluation:

- assess the extent to which the Directive meets its objectives in terms of securing the revenues of tax administrations and ensuring the proper functioning of the internal market;
- identify issues that have the highest potential for efficiency gains in terms of securing the revenues of tax administrations and reducing administrative and compliance costs, while meeting the requirements for a proper functioning of the internal market;
- formulate recommendations, possibly based on good practices, on how best to address identified issues.

The evaluation is limited to Directive 92/83/EEC and hence does not cover the approximation of the rates of excise duties for alcohol and alcoholic beverages under Directive 92/84/EEC.

Instructions

The questionnaire is available in English, French and German. Please inform us if you wish to receive the questionnaire in any of these three EU working languages.

Acknowledging that the topics covered by the study may not necessarily be performed by a single unit or authority within the administration of your country, the questionnaire has been **split in sections** which relate to the same topic, designed to facilitate the completion of this questionnaire.

Please insert the name(s) of the persons which have contributed to answering this questionnaire, together with contact details and the topics which they have covered. Following your written submission, a **follow-up phone interview** may be conducted in order to clarify any unclear answers and fill-in missing items.

Many questions **allow tick-box answers** or allow you to pick from **multiple choices from a drop-down menu** in order to minimise the effort required for answering the questionnaire. However, please take your time to answer all questions, providing explanations, context and quantitative data where relevant.

The questions are split into the following topics:

We appreciate your contribution and time for providing input to the revision process of Directive 92/83/EEC.

If you have any questions, or require any additional clarifications; please do not hesitate to contact Ramboll:

Alexandru Floristean (alf@ramboll.com)
Franziska Lessmann (fran@ramboll.com)

Respondents' details

MEMBER STATE:	Netherlands

Respondent Name 1:	Hans van Herwijnen
Function:	Policy advisor
Authority/Unit:	Ministry of Finance
Telephone Number:	
E-mail:	
Topic(s) covered:	
Respondent name 2:	Toon Zom
Function:	Policy advisor
Authority/Unit:	Dutch Tax Authority
Telephone Number:	
E-mail:	
Topic(s) covered:	
Respondent name 3:	Martijn van Winkelhof
Function:	Policy advisor
Authority/Unit:	Dutch Tax Authority
Telephone Number:	
E-mail:	
Topic(s) covered:	

1. Classification of alcohol and alcoholic beverages for excise purposes

The Directive lays down a framework that provides common definitions for different categories of alcoholic beverages with the aim of ensuring uniform categorisation of identical products throughout the Member States. The product categories used in the Directive are: beer, wine, fermented beverages other than beer or wine, intermediate products and ethyl alcohol. The common definitions of these products are based on the Combined Nomenclature (CN codes), classifying goods for customs purposes.

The Directive was adopted more than twenty years ago and has not been amended since. With the following questions we would like to understand whether the product classification made in the Directive is still relevant today and whether handling the classification at EU level is the best approach.

Relevance and EU added value of classification
Please indicate to what extent you agree with the following statements.
1. The **needs of my administration** in terms of classification of alcohol and alcoholic

beverages for excise purposes are met by the provisions of the Directive. [EQ5.1]

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☒ Disagree
- ☐ Strongly disagree
- ☐ Don't know

If you "disagree" or "strongly disagree", please explain why the arrangements do not satisfy the needs of your administration :

For some specific products (so called fermented alcoholic beverages) the provisions as stipulated in the Directive do not meet with the developments of the alcoholic beverage market .See also our answers on questions 3 to 13.

2. Common definitions of alcohol and alcoholic beverages for excise purposes should be set **at EU level** (as it is currently the case). [EQ4.1]

- ☐ Strongly agree
- ☒ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree
- ☐ Don't know

If you selected "agree" or "strongly agree" please mention what you believe are the main advantages of having common definitions for excise purposes set at EU level :

There are many discussions about division between products under in the current Directive. We think it is a step forward when definitions at EU level are more accurately described and specified.

If you selected disagree or strongly disagree, please mention what other mechanisms can be employed which could achieve similar or improved results in terms of effectiveness and efficiency.

The questions below aim at identifying any issues with the classification of products according to the Directive.

Issues with classification

3. Have you encountered **difficulties with assigning products** to the categories of the Directive (such as uncertainty within your administration, disputes with economic operators)? [EQ1.1a]

- ☒ Yes
- ☐ No

4. If yes, with **which of the following products** did you encounter problems? [EQ1.1a]

- ☒ Products containing a mixture of fermented beverages with distilled alcohol
- ☒ Alcopops containing cleaned-up alcohol[1]
- ☒ Cream liquors
- ☐ Mead
- ☐ Other:

[1] Fermented alcohol which has been subjected to industrial processes that strip out the components that give the beverage its fermented character

Please explain the nature of the problem, including the characteristics of the product in question, its ingredients, alcoholic content, source of alcohol), the relevant CN codes, quantities affected, nature of the problem and (if applicable) the solution that was adopted or considered.

Considerable difference in excise rates between the products of the CN headings 22.06/22.08, cultural aspects (grape wine – fruit wine), HS/CN explanatory notes obsolete, Council Directive 92/83 obsolete as well as Dutch national legislation consumer protection (In the Netherlands alcoholic beverages having 15% abv or more, may only be sold in specific liquor stores (not in supermarkets)) and "innovation" of production methods has lead to many court cases with regard to the classification of fermented alcohol-based beverages (14,5%), to which (initially a certain proportion of distilled alcohol) water, sugar syrup, aromas, colourings and, in some cases, a cream base have been added, resulting in the loss of the taste, smell and/or appearance of a beverage produced from a particular fruit or natural product, having the strong resemblance of a liqueur. Marketing wise these products are considered to be a "likorette", excise wise considered to be a fermented beverage/fruit wine, whereas Dutch customs would classify these products as liqueurs (heading 22.08).

5. Do you consider the Directive provides **all the categories needed** in order to classify all alcoholic beverages subject to excise duty? [EQ1.1a]
   - ☒ Yes
   - ☐ No, please indicate which product category should be added

In the case C-150/08, known as Siebrand, the European Court of Justice ruled on the classification of products containing mixtures of fermented and distilled alcohol. The judgement notes that in order to define the "essential character" of a product which defines its classification both the alcohol content and the organoleptic characteristics (taste, smell, appearance) should be considered.

Please indicate to what extent you agree with the following statement.

6. The **criteria laid down in the Siebrand case** clarified the classification of products containing a mixture of fermented and distilled alcohol products. [EQ1.1b]
   - ☐ Strongly agree
   - ☒ Agree
   - ☐ Neither agree nor disagree
   - ☐ Disagree
   - ☐ Strongly disagree
   - ☐ Don't know

   If you "disagree" or "strongly disagree", please explain the problems you are facing

   However, the ruling in the Siebrand case has not provided the classification guidelines with regard to "next generation" fermented alcohol-based beverages (14,5%), to which no distilled alcohol has been added, solely water, sugar syrup, aromas, colourings and, in some cases, a cream base, however stillresulting in the loss of the taste, smell and/or appearance of a beverage produced from a particular fruit or natural product, having the strong resemblance of a liquor. Preliminary questions were therefore raised by the Dutch Supreme Court in the pending cases C-532-533/14 (Toorank).

7. Do you experience difficulties with the definition of the "***essential character***" of products? [EQ1.2b]
   - ☐ Yes, please explain your difficulties
   - ☒ No

8. Do you experience difficulties with the definition of "***intended use***" of the product following the Siebrand judgement?
   - ☐ Yes, please explain your difficulties
   - ☒ No

9. Have you encountered problems with regards to inconsistencies between the product classification in the Directive and the **customs CN code system** on which it is based? [EQ6.1.a]
   - ☒ Yes, please explain these inconsistencies and their impact :
     Description of products in the Directive are in some cases obsolete
   - ☐ No

10. Have you encountered problems with regards to inconsistencies of the treatment of **pre-cursors of wine** (must and juices intended to become wine) which are not identified as excisable products by the Directive but have to be moved with an accompanying documents just like excisable products? [EQ6.1.b]
    - ☐ Yes, please explain these inconsistencies and their impact
    - ☒ No

We would like to understand the consequences of the classification issues mentioned above both in terms of administrative burden and in terms of potential loss of tax income.

Consequences of classification issues

Please indicate to what extent you agree with the following statement.

11. The difficulties encountered with the classification of alcohol and alcoholic beverages lead to **increased administrative costs**. [EQ3.1]
    - ☐ Strongly agree
    - ☒ Agree
    - ☐ Neither agree nor disagree
    - ☐ Disagree
    - ☐ Strongly disagree
    - ☐ Don't know
    - ☐ No difficulties with classification have been encountered

    If you "agree" or "strongly agree", please indicate the extent to which administrative costs increased as a result of the difficulties encountered.
    - ☐ Strong increase
    - ☐ Medium increase
    - ☒ Low increase
    - ☐ Don't know

12. If you answered 'Yes' to Q3 above, please describe the **actual or potential tax impact** of these classification problems, i.e. what is the difference between the duty applied and that which you believe should be applied for each of the classification problems that you have identified. [EQ2.2] "105,98 euro per hl for intermediate products versus 252,90 euro per hl for ethyl alcohol (pending on the % vol, €16,86 pro %) in case of 15% vol alc."

    If necessary, please refer to specific / individual cases should no overall information be available.

Possible solutions to encountered problems
13. If you encountered any problems regarding the classification of products, do you think these should be solved through **changes to the Directive**? [EQ7] ☒ Yes ☐ No If yes, please explain which provisions should be changed and in what way Inclusion of elements of relevant court rulings in provisions of the Directive with regard to the exclusion as fermented alcohol-based beverages of products to which a certain proportion of distilled alcohol, water, sugar syrup, aromas, colourings and, in some cases, a cream base have been added, resulting in the loss of the taste, smell and/or appearance of a beverage produced from a particular fruit or natural product.

2. Establishing excise duty for beer

The Directive leaves Member States the choice to levy excise duty on beer either by reference to the number of hectoliters/degrees Plato or by reference to the number of hectoliters/degrees of actual alcoholic strength by volume.

We would like to understand the underlying reasons of choosing one method over another and whether there are any important differences in terms of tax competition between the two methods.

Effectiveness of measuring methods
14. What was the **main reason** for your Member State to choose either the Plato method or to establish excise duty for beer based on alcoholic strength? [EQ1.3b] The reason for this is industry and policy based
Please indicate to what extent you agree with the following statements.
15. Where both methods for establishing excise duty for beer are available in a Member State, this creates **competitive distortions** between beer producers who are taxed differently within that Member State. [EQ1.3c] ☐ Strongly agree ☐ Agree ☒ Neither agree nor disagree ☐ Disagree ☐ Strongly disagree ☐ Don't know If you "agree" or "strongly agree", please explain the mechanism behind these distortions in our view art 3 of the directive gives no choice for one member state to aply both methods.
16. The provision of two different methods for establishing excise duty for beer leads to unfair tax competition between countries, e.g. whereby producers base their location and investment decisions on this. [EQ1.3c] ☐ Strongly agree ☐ Agree ☐ Neither agree nor disagree ☐ Disagree ☐ Strongly disagree ☒ Don't know If you "agree" or "strongly agree", please explain the mechanism behind the unfair

competition and its impact

If you "disagree" or "strongly disagree", please lay down how fair competition is ensured

3. Reduced excise duty rates for small producers

With regards to small producers, the Directive allows for reduced rates. This does however only apply to certain product categories, namely to beer and ethyl alcohol.

For beer, Article 4 gives Member States the option to apply reduced rates to brewers producing no more than 200,000 hectolitres per year. For ethyl alcohol, Article 22 gives Member States the option to apply reduced rates to distillers producing no more than 10 hectolitres of alcohol per year or 20 hectolitres if already provided when the Directive was adopted.

We would like to understand whether it is still relevant to have reduced rates for small producers and whether these should be extended to other product categories.

Relevance and EU added value of reduced rates for small producers

Please indicate to what extent you agree with the following statements.

17. Overall, the **needs of my administration** in terms of providing reduced excise duty rates for small producers are met by the provisions of the Directive[EQ5.3]
    - ☐ Strongly agree
    - ☒ Agree
    - ☐ Neither agree nor disagree
    - ☐ Disagree
    - ☐ Strongly disagree
    - ☐ Don't know

    If you "disagree" or "strongly disagree", please explain why the arrangements do not satisfy the needs of your administration .

18. In particular, the limit of applying reduced rates to **brewers** producing no more than 200,000 hectolitres per year is appropriate. [EQ5.3]
    - ☐ Strongly agree
    - ☒ Agree
    - ☐ Neither agree nor disagree
    - ☐ Disagree
    - ☐ Strongly disagree
    - ☐ Don't know

    Please explain your choice

19. In particular, the limit of applying reduced rates to **distillers** producing no more than 10 hectolitres of alcohol per year or 20 hectolitres if already provided when the Directive was adopted is appropriate. [EQ5.3]
    - ☐ Strongly agree
    - ☒ Agree
    - ☐ Neither agree nor disagree
    - ☐ Disagree
    - ☐ Strongly disagree
    - ☐ Don't know

    Please explain your choice

20. The possibility to apply **reduced rates should also be introduced** for still and sparkling wines, other fermented beverages and intermediate products. [EQ5.3]

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☒ Strongly disagree
- ☐ Don't know

Please explain your choice, including whether or not the application of reduced rates should apply only to some of the above mentioned categories.

Too many diferentiations will have distorting effects on the internal market and are costly in implementation and enforcement.

21. The possibility to set reduced rates for small producers of alcohol and alcoholic beverages and the applicable limits should be **set at EU level** (as it is currently the case). [EQ4.2]

- ☒ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree
- ☐ Don't know

If you "agree" or "strongly agree", please describe the advantages of such an approach.

Within the internal market it would be not appropriate to leave this possibility to Member-States. It would lead to a proliferation of (levels of) reduced rates and limits.

If you "disagree" or "strongly disagree", please describe the reasons for this opinion and any mechanisms which you find more appropriate.

22. The possibility to apply **exemptions** from the scope of excise duty **for small producers** of alcoholic beverages should be considered.

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☒ Strongly disagree
- ☐ Don't know

Please explain your choice, including whether or not the application of exemptions should apply only to some of the above mentioned categories.

We understand the question like this: "exemptions from the scope of excise duty for small producers of alcoholic beverages" would mean that they are no longer under the system of tax warehouses, EMCS, etc. For the Customs administration it would nevertheless be necessary to check regularly whether the 'exemption' is still valid. In our view such a possibility would only complicate legislation and enforcement.

4. Reduced rates for alcoholic beverages below a certain alcoholic strength

The Directive allows Member States to apply reduced rates for all categories of alcoholic beverages when they are below a certain level of alcoholic strength. Member States may apply reduced rates to:

- beer with an actual alcoholic strength not exceeding 2.8% vol;
- still and sparkling wine of an actual alcoholic strength by volume not exceeding 8.5% vol;
- still and sparkling other fermented beverages of an actual alcoholic strength not exceeding 8.5% vol;
- intermediate products with an actual alcoholic strength by volume not exceeding 15% vol if that reduced rate is neither set at more than 40% below the standard national excise rate and nor lies below the standard national rate for wine and other fermented beverages;
- ethyl alcohol with an actual alcoholic strength by volume not exceeding 10% vol.

We would like to understand whether the existence of these reduced rates and the limits set in the Directive for their application are still considered to be relevant.

Relevance of reduced rates for alcoholic beverages below a certain alcoholic strength

Please indicate to what extent you agree with the following statements.

23. Overall, the **needs of my Member State** in terms of providing reduced excise duty rates for alcoholic beverages below a certain alcoholic strength are met by the provisions of the Directive. [EQ5.4]

    ☐ Strongly agree
    ☒ Agree
    ☐ Neither agree nor disagree
    ☐ Disagree
    ☐ Strongly disagree
    ☐ Don’t know

    If you “disagree” or “strongly disagree”, please lay down the reasons for which the arrangements do not satisfy your needs.

24. In particular, the limit below which Member States may apply reduced rates for **beer** (an actual alcoholic strength not exceeding 2.8% vol) is appropriate. [EQ5.4]

    ☐ Strongly agree
    ☒ Agree
    ☐ Neither agree nor disagree
    ☐ Disagree
    ☐ Strongly disagree
    ☐ Don’t know

Please explain your choice].

25. In particular, the limit below which Member States may apply reduced rates for **wine** (still and sparkling wine of an actual alcoholic strength not exceeding 8.5% vol) is appropriate. [EQ5.4]

    ☐ Strongly agree
    ☒ Agree
    ☐ Neither agree nor disagree
    ☐ Disagree
    ☐ Strongly disagree
    ☐ Don’t know

Please explain your choice]

26. In particular, the limit below which Member States may apply reduced rates for **other fermented beverages** (still and sparkling other fermented beverages of an actual alcoholic strength not exceeding 8.5% vol) is appropriate. [EQ5.4]

- ☐ Strongly agree
- ☒ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree
- ☐ Don't know

Please explain your choice :
This provision offers Member-States the possibility to differentiate, at least to a certain extent, the rates according to alcohol content.

27. In particular, the limit below which Member States may apply reduced rates for **intermediate products** (an actual alcoholic strength not exceeding 15% vol) is appropriate. [EQ5.4]

- ☐ Strongly agree
- ☒ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree
- ☐ Don't know

Please explain your choice :
This provision offers Member-States the possibility to differentiate, at least to a certain extent, the rates according to alcohol content.

28. In particular, the limit below which Member States may apply reduced rates for **ethyl alcohol** (an actual alcoholic strength not exceeding 10% vol) is appropriate. [EQ5.4]

- ☐ Strongly agree
- ☒ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree
- ☐ Don't know

Please explain your choice

5. Exemptions and reduced rates for products intended for own consumption

Regarding purely private production for domestic consumption, the Directive allows Member States to provide an exemption for beer, wine and other fermented beverages.

Additionally, reduced rates can be applied to small-scale distillery production of spirits for the domestic consumption of the households of fruit-growers in Hungary, Romania, Bulgaria, Czech Republic and Slovakia. These allow for reduced rates of 50% for spirits

produced in distilleries that are made from the fruit of a fruit-grower and destined for his household consumption up to a maximum of 30 or 50 litres of fruit spirits per year per household depending on the Member State.

With the following questions we would like to understand whether the exemptions for own consumption should be expanded to all product categories and what potential consequences would be. We would furthermore like to know whether the reduced rates for fruit growers are used in the concerned Member States.

Relevance of exemptions and reduced rates for products intended own consumption

Please indicate to what extent you agree with the following statements.

29. Exemptions for private production intended for own consumption should be established for **intermediate products and ethyl alcohol**. [EQ5.6]
- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☒ Strongly disagree
- ☐ Don't know

Please explain your choice, including whether or not the application of exemptions should apply only to some of the above mentioned categories.

The exemption for private producers results in problems with the enforcement. Moreover, such an exemption could finally create a distortion of the internal market.

30. An expansion of the exemption to intermediate products and ethyl alcohol would increase the **risk of fraudulent production and sale** of these products, and could eventually have a cross-border effect. [EQ5.6]
- ☐ Strongly agree
- ☒ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree
- ☐ Don't know

Please explain your choice See answer 29

This question only applies to Bulgaria, Czech Republic, Hungary, Romania and Slovakia.

31. Are the provisions regarding the **reduced rates** for ethyl alcohol produced from fruit growers **still applied** in your Member State? [EQ5.7]
- ☐ Yes
- ☐ No

Please explain why/why not:

6. Provisions only applying to specific Member States

The Directive includes provisions for the application of exemptions and reduced rates to products of regional or traditional nature which only apply to specific products from selected Member States.

The following questions will indicate to which Member State they are addressed.

Relevance of product specific reduced rates and exemptions
32. This question only applies to France.
33. This question only applies to Greece.
34. This question only applies to the United Kingdom.

7. Exemptions for denatured alcohol

Article 27 of the Directive allows for exemption from excise duty of denatured alcohol. Under Article 27.1(a) of the Directive "alcohol which has been completely denatured in accordance with the requirements of any Member State" shall be exempted from the application of excise duty. The requirements for those exemptions are to be notified to the Commission and shared with the other Member States under the procedure provided for in Articles 27.3 to 27.5. The recognised denaturing procedures are listed in Commission Implementing Regulation No 162/2013[2].

Under Article 27.1(b) alcohol that has been denatured "in accordance with the requirements of any Member State and used for the manufacture of any product not intended for human consumption" shall be exempted from excise duty. This is sometimes referred to as "partially denatured alcohol".

Relevance, coherence and EU added value of exemptions of denatured alcohol

Please indicate to what extent you agree with the following statements.

35. The needs of my administration in terms of the exemption of **completely denatured alcohol** as understood under Article 27.1(a) are met by the provisions of the Directive. [EQ5.8]
    - ☐ Strongly agree
    - ☐ Agree
    - ☐ Neither agree nor disagree
    - ☒ Disagree
    - ☐ Strongly disagree
    - ☐ Don't know

If you "disagree" or "strongly disagree", please lay down the reasons for which the arrangements do not satisfy your needs. Our administration prefers in any case more specific Eurodenaturants which can be used by the following specific sectors in the market. These sectors, in wich products are often sent in bulk, are:
-screenwash, de-icer and anti-freeze
-burning alcohol for heating

[2] Amending Commission Regulation 1399/93

-burning alcohol for cooking
-industrial cleaning alcohol
-biofuels

36. The needs of my administration in terms of the exemption of **denatured alcohol as understood under Article 27.1(b)** are met by the provisions of the Directive. [EQ5.8]

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☒ Disagree
- ☐ Strongly disagree
- ☐ Don't know

If you "disagree" or "strongly disagree", please lay down the reasons for which the arrangements do not satisfy your needs.

Products that are exempted under 27-1-b can move freely through the Union according to the opinion of the Commission. In our opinion these products are still alcohol according to article 20 of the Directive and if they are moved these products need to be send with a SAAD. However there is a big difference between final products that are moved in the form of bulkalcohol (for example: screen-wash) and those which are moved in a retail-packing (for example tooth-paste) For the products send in bulk we want them to be send with a SAAD in which is mentioned the denaturing-method that has been used for the exemption of 27-1-b.
Furthermore there should be common marker (to be distinguished from a denaturant) for all products which are exempted under article 27-1-b.

37. The establishment of a common system for the recognition and management of exemptions of denatured alcohol from the scope of excise duty **at EU level** is appropriate. [EQ4.3]

- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree
- ☒ Don't know

If you selected "agree" or "strongly agree" please mention what are the main advantages of defining common rules for exemptions of denatured alcohol at EU level.
We do not fully understand this question.
We sometimes know nothing about the way other Member-States denature. Our Customs laboratory does not know which methods of denaturing are used by other Member-States. They must conduct investigations. This especially gives problems with bulkalcohol.
In addition, the advantage is that the trade knows how to / can denature, the cost of denaturing is clear to them and there is less distorion.

If you selected "disagree" or "strongly disagree", please mention what other mechanisms can be employed which could achieve the similar or improved results in terms of effectiveness and efficiency.

We would like to understand which denaturing methods are used in the different Member States to allow for the exemption of completely denatured alcohol (Article 27.1(a)).

Exemption of completely denatured alcohol

38. Under **which conditions** do you apply exemptions based on Article 27.1(a) (completely denatured alcohol) to the following products? (several answers are possible) [EQ1.2a]

Denatured alcohol produced in your Member State

- ☐ Only denaturing methods listed in Regulation 162/2013 under the name of my country are accepted
- ☒ Eurodenaturant
- ☐ Any denaturing method listed in Regulation 162/2013 is accepted
- ☐ Other, please explain

Denatured alcohol produced in another Member State, moved to your country

- ☐ Only denaturing methods listed in Regulation 162/2013 under the name of my country are accepted
- ☒ Eurodenaturant
- ☒ Any denaturing method listed in Regulation 162/2013 is accepted
- ☐ Other, please explain

[Explanation: Any denaturing method listed in Regulation 162/2013 is accepted for alcohol that is send and denatured with the method of that specific Member State as denatured according to 27-1-a. Other methods from other Member-State denatured in a third Member State are exempted according 27-1-b]

Denatured alcohol imported from outside the EU

- ☐ Only denaturing methods listed in Regulation 162/2013 under the name of my country are accepted
- ☒ Eurodenaturant
- ☐ Any denaturing method listed in Regulation 162/2013 is accepted
- ☐ Denaturing methods not notified under the Directive can be used
- ☐ Other, please explain

39. Do the conditions that apply for exemptions for completely denatured alcohol (i.e. using only your Member States' denaturing method or allowing for other methods) differ depending on **the intended use of the product**? [EQ1.2a]

- ☐ Yes, please indicate the differences
- ☒ No

We would like to understand which denaturing methods are used in the different Member States to allow for the exemption of products containing denatured alcohol based on Article 27.1(b).

Denatured alcohol exempted based on Article 27.1(b)

40. Please provide an overview of the **denaturing formulations** of your Member State for the purpose of exemptions under Article 27.1(b).

- ☐ Returned as attachment with the completed questionnaire
- ☐ Can be accessed online, under the following link:

Attachment:
- 5% isopropyl alcohol (IPA)

- 1% (German) MEK and Bitrex 1g / 100l (German mixing mentioned in Output VO 162/2013).
- 10% ethyl acetate
- 5% methanol (package less than 5l, see decision of State.)
- 0.5% chlorhexidine and / or 1% iodine (in particular, the chlorhexidine is used in disinfectant hand, these products often contain about 70% ethanol have no RVG No and therefore can not be exempted as a drug. Mention that this exemption is only for packages smaller than 5 liter, analogous to the decision of State 5% methanol)

Furthermore, there are number of end products exempt (art. 64) which contain alcohol, paints, mouthwashes, cleaning agents, herbal extracts (in analogy to the aroma substances), etc. These products often contain no specific denaturant, do contain a wide range of other products. Products are often expensive per liter. This makes it uneconomic to separate the ethanol.
Also there will be exemptions issued by the lab, wandering from the time that it was not properly maintained.

Naturally, the exemption will also still be used as listed in Appendix A2. The exemption by 1% light oil (petrol) is used a lot for the ethanol fuel which the destination is the exemption of 0.1% ETBE is not used much.

41. Under **which conditions** do you apply exemptions under Article 27.1(b) to the following products? (several answers are possible) [EQ1.2b]

Denatured alcohol produced in your Member State

☐ Only denaturing methods published by my country
☐ Eurodenaturant
☐ Denaturing methods of your own and any other Member State
☒ Other, please explain 1. denaturing methods mentioned in our legislation
2. denaturing methods aproved by Dutch Customs Laboratory

Denatured alcohol produced in another Member State, moved to your country

☐ Only denaturing methods published by my country
☐ Eurodenaturant
☐ Denaturing methods of your own and any other Member State
☒ Other, please explain 1. denaturing methods mentioned in our legislation
2. denaturing methods aproved by Dutch Customs Laboratory

Denatured alcohol imported from outside the EU

☐ Only denaturing methods published by my country
☐ Eurodenaturant
☐ Denaturing methods of your own and any other Member State
☒ Other, please explain 1. denaturing methods mentioned in our legislation
2. denaturing methods aproved by Dutch Customs Laboratory

42. Do the conditions that apply to products containing denatured alcohol exempted based on Article 27.1(b) (i.e. using only your Member States' denaturing method or allowing for other methods) differ depending on the intended use of the product? [EQ1.2b]

☒ Yes, please indicate the differences In some cases the producer of the exempted product needs an license and a guarantee is obligatory. In some cases we let this depend on the packaging. It all depends if the denatured alcohol only can be used for exempted purposes.

☐ No

43. How do you understand the term "used for the manufacture of any product not for human consumption"? [EQ1.2b] The text of this provision in the Dutch version of the Directive is not in line with the Englisch version of the Directive. We understand the term also in this way that the bulkalcohol is intended to be used not for human consumption.

44. Do you think alcohol used in the production chain, in particular for cleaning should be exempted from excise duty? [EQ1.2b]

☒ Yes

☐ No

Please explain why/why not: because it is not used for consumption

Please indicate to what extent you agree with the following statements.

45. The existence of the various denaturing methods both for completely denatured alcohol and for products made with denatured alcohol exempted under Article 27.1(b) renders the **monitoring and control of production** of denatured alcohol by my administration particularly difficult. [EQ3.2]

☐ Strongly agree
☐ Agree
☐ Neither agree nor disagree
☒ Disagree
☐ Strongly disagree
☐ Don't know

Please explain your choice As far as production in our country is concerned this is not particularly difficult.

46. The existence of the various denaturing methods both for completely denatured alcohol and for products made with denatured alcohol exempted under Article 27.1(b) renders the **monitoring and control of movements** of denatured alcohol by my administration particularly difficult. [EQ3.2]

☐ Strongly agree
☒ Agree
☐ Neither agree nor disagree
☐ Disagree
☐ Strongly disagree
☐ Don't know

Please explain your choice We agree because we do not know how products are denatured in other Member-States, so it is difficult to recognize it.

47. The existence of the various denaturing methods both for completely denatured alcohol and for products made with denatured alcohol exempted under Article 27.1(b) renders the **analysis of products in custom laboratories** particularly difficult. [EQ3.2]

☐ Strongly agree
☐ Agree
☒ Neither agree nor disagree
☐ Disagree
☐ Strongly disagree
☐ Don't know

Please explain your choice The workload in investigations is reasonable. deleting a large number of denaturing methods will yield us no significant working lights.

48. What is the **volume and value** of denatured alcohol produced in your country? Please also identify units.

- Volume produced
- Volume sold
- Value

Please distinguish between CDA and alcohol exempted under Article 27.1(b) if it is possible.

- CDA volume
- CDA value
- alcohol exempted under Article 27.1(b) volume
- alcohol exempted under Article 27.1(b) value

Please identify any other caveats or conditions around your answers

49. What is the **volume** of denatured alcohol used by each of the following sectors? Please also identify units.

- Cosmetics, perfumes and personal hygiene products
- Screen wash, anti-freeze and de-icer
- Bio-fuels
- Printing inks, paints and other solvents

Please identify any other caveats or conditions around your answers

If a Member State finds that a product which has been exempted from excise duty as a completely denatured alcohol according to the Directive gives rise to evasion, avoidance or abuse it may refuse to grant exemption or withdraw the granted relief (Article 27.5).

We would like to understand whether this mechanism is relevant and functioning as intended.

Mechanism for conflict resolution

50. Has your Member State ever **made use of the mechanism of Article 27.5**? [EQ5.9]

☐ Yes

☒ No

If yes, has this led to an agreement that was acceptable to all parties and prevented fraud thereafter?

☐ Yes

☐ No, please explain why not

51. Which reasons could currently or in the future, **prevent** your administration **from using** the mechanism of Article 27.5? [EQ5.9] we don't see any reason

Possible solutions to encountered problems

52. If you encountered any problems regarding the exemption of denatured alcohol, do you think these should be solved through **changes to the Directive**? [EQ7]

☒ Yes

☐ No

If yes, please explain which provisions should be changed and in what way
More Eurodenaturants for several sectors and no CDA formulations per Member State

Please indicate to what extent you agree with the following statement.

53. **Linking** denaturing methods **to the intended use** of a product (as done in the US) presents a solution to the encountered problems. [EQ7]
- ☐ Strongly agree
- ☐ Agree
- ☐ Neither agree nor disagree
- ☐ Disagree
- ☐ Strongly disagree
- ☒ Don't know

Please explain your choice

8. Fraud with alcohol and alcoholic beverages

Linked to the provisions on exemptions for denatured alcohol is the risk of circumvention of excise duties.

Obviously the exact scale of fraud is not precisely known. Therefore we seek your **best estimates or even best guesses** on the following questions.

Fraud with alcohol and alcoholic beverages

54. For each of the following, please identify how significant you believe each of the following methods of fraud are in your country in accordance with a scale, where:

1= Very significant
2= Significant
3= Moderate significance
4= Slightly significant
5= No or very limited significance
6 = Do not know

You may select your choice from the drop-down menus associated with each choice below.

- Illegal production[3] 5 = No or very limited significance
- Smuggling from other Member States 5 = No or very limited significance
- Smuggling from outside the EU 5 = No or very limited significance
- Abuse of exemptions for denatured alcohol 5 = No or very limited significance
- Diverting alcohol from the legal supply chain[4] (other than abuse of exemptions for denatured alcohol) 3 = Moderate signifcance
- Other ...., please specify

[3] This is to be understood as production of alcoholic beverages outside of a tax warehouse, outside of the instances when it is allowed to do so.
[4] This is to be understood as instances when alcohol which is legally produced in a tax warehouse is illegally diverted from the supply chain, without the payment of the excise duty due.

Please distinguish, as appropriate, between different alcohol products and also identify any other caveats or conditions around your answers

55. For each of the following, please score your best estimate of the **tax gap** as a percentage of total potential tax liabilities in the latest year in accordance with a scale, where:

1= Very significant, tax gap is greater than 20% of total estimated potential tax liabilities
2= Tax gap is between 16.1-20% of total estimated potential tax liabilities
3= Tax gap is between 12.1-16% of total estimated potential tax liabilities
4= Tax gap is between 8.1–12% of total potential tax liabilities
5= Tax gap is between 4.1–8% of total potential tax liabilities
6= No or very limited significance, tax gap below 4% of total potential tax liabilities
7= Do not know

NB Another way of considering this is to think of the tax gap in terms of unrecorded consumption.

You may select your choice from the drop-down menus associated with each type of duty below.

- Spirits duty ....
- Intermediate products duty ....
- Other fermented beverages duty ....
- Beer duty ....
- Wine duty ....

Please identify any other caveats or conditions around your answers

We do not know

56. Drawing on your answers to the previous question, please identify how much of the duty loss due to fraudulent activity relates to **abuse of the exemptions for denatured alcohol**, using the following scale:

1= Over 80% of the total
2= 61-80% of the total
3= 41-60% of the total
4= 21-40% of the total
5= 6 - 20% of the total
6= Below 5% of the total
7= Do not know

You may select your choice from the drop-down menus associated with each type of duty below.

- Contribution to loss of spirits duty due to abuse of denatured alcohol exemption Don't Know
- Contribution to loss of intermediate products duty due to abuse of denatured alcohol exemption Don't Know
- Contribution to loss of other fermented beverages duty due to abuse of denatured alcohol exemption Don't Know
- Contribution to loss of beer duty due to abuse of denatured alcohol exemption Don't Know
- Contribution to loss of wine duty due to abuse of denatured alcohol exemption Don't Know

Please distinguish, as appropriate, between different alcohol products and also identify any other caveats or conditions around your answers

57. Another way of considering this problem is to consider the extent to which you believe **denatured alcohol is being diverted** from within the supply chains of the following products:

1= Greater than 20% of total
2= Between 16.1-20.0% of total
3= Between 12.1-16.0% of total
4= Between 8.1–12% of total
5= Between 4.1–8% of total
6= Below 4%
7 = Do not know

You may select your choice from the drop-down menus associated with each choice below.

- % of denatured alcohol intended for cosmetics, perfumes and personal hygiene products Don't Know
- % of denatured alcohol intended for screen wash, anti-freeze and de-icer Don't Know
- % of denatured alcohol intended for Bio-fuels Don't Know
- % of denatured alcohol intended for printing inks, paints and other solvents Don't Know
- % of denatured alcohol intended for other industries Don't Know , please identify the industry

Please identify any other caveats or conditions around your answers

Detection of fraud

58. What the approximate **budget and human resources** applied to the detection of fraud related to alcoholic beverages in your Member State?

- Budget (€m) no available
- People (full-time equivalents) not available

59. Have the resources applied in this area increased over the last 3-5 years? yes

60. Last year (2014) what volume of seizures did you make in the following product areas. Please specify units, and approximate retail value if known.

- Wine 97 1031869ltr
- Spirits 151 106432ltr
- Beer 58 490243,9ltr
- Other alcoholic beverages ethanol
- ☐ 14 3022936

61. Again considering last year (2014), what is your best estimate (guess) of the **detection rate** (as a %) of the following activities?

- Illegal production
- Diverting alcohol from the legal supply chain
- Smuggling
- Abuse of exemptions

- Other

Please distinguish, as appropriate, between different alcohol products and also identify any other caveats or conditions around your answers

We do not know

62. Again considering last year (2014), what is your best estimate (guess) of the **detection rate** (as a %) for fraudulent use of the following?

- Illegal use of denatured alcohol
- Illegal use of CDA
- Illegal use of alcohol exempted under Article 27.1(b)

We do not know

9. Excise duty as a policy tool

While the Directive was found to primarily ensure the functioning of the internal market and safeguard the budgetary interests of the Member States, excise duties are also a policy tool for consumer health objectives.

With the following question we would like to understand whether the Directive allows Member States to pursue these objectives.

Relevance of provisions with regards to consumer health objectives

Please indicate to what extent you agree with the following statements.

63. Overall, the provisions of the Directive 92/83/EEC allow for using excise duties on alcohol as a policy tool with regards to **protection of consumer health**. [EQ5.2]
    - ☐ Strongly agree
    - ☐ Agree
    - ☒ Neither agree nor disagree
    - ☐ Disagree
    - ☐ Strongly disagree
    - ☐ Don't know

    Please explain your choice:

64. In particular, the **calculation of excise duty based on the volume of the product** rather than the actual alcoholic content conflicts with the health policy of my country. [EQ5.2]
    - ☐ Strongly agree
    - ☐ Agree
    - ☒ Neither agree nor disagree
    - ☐ Disagree
    - ☐ Strongly disagree
    - ☐ Don't know

    Please explain your choice:

ADDITIONAL INFORMATION OR COMMENTS

European Commission